

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
October 25, 2005**

Place: Room 206
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Forman, Conze, Kenny, Spain, Bigelow

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Beler

Mr. Damanti noted that the first agenda item had been postponed until November 22, 2005:

Coastal Site Plan Review #188-A, Flood Damage Prevention Application #199-A, Jay Wilderotter, 59 Five Mile River Road. Proposing to construct a low retaining wall, install stone capping on the existing rubble river embankment, new landscaping along the river edge, and proposed boat ramp and landing, and perform related site development activities within regulated areas. The subject property is on the northeast side of Five Mile River Road, approximately 150 feet east of its intersection with Berry Lane, and is shown on Tax Assessor's Map #66 as Lot #10, in an R-1/2 Zone.
POSTPONED UNTIL NOVEMBER 22, 2005.

Mr. Damanti then read the next agenda item:

Continuation of Public Hearing Regarding Proposed Amendment to the Darien Zoning Map, Peter Ike/1915 Post Rd, LLC, 1909-1915 Boston Post Road. Proposing to amend the Darien Zoning Map to rezone a portion of the subject property (approximately 8,542 square feet) from Residential (R-1/3) to Neighborhood Business (NB). The subject property is located on the north side of Boston Post Road approximately 145 feet west of its intersection with Dickinson Road, and is shown on Assessor's Map #42 as Lot #5, in the NB and R-1/3 Zones.

Mr. Ginsberg mentioned that the applicant's attorney had sent a letter confirming that they would like to continue the public hearing on this matter to November 29, 2005.

Mr. Damanti then read the next agenda item:

Special Permit Application #11-O, Ox Ridge Hunt Club, 512 Middlesex Road. Proposing to construct a 36' x 140' replacement for a portion of the existing northern stable and perform related site development activities. Subject property is located on the south and east sides of Middlesex Road, directly across from its intersection with Ox Ridge Lane, and is shown on Assessor's Map #6 as Lot #149, R-2 Zone.

Attorney Bruce Hill was present on behalf of the Ox Ridge Hunt Club, and introduced Club members James Lala and Diane Hitchings who were in the audience. Mr. Hill noted that the Club recently hired a structural engineer who discovered that portions of the existing stable barn were unsafe. The barn cannot be repaired, and needs to be replaced. A 34' x 140' part of the stable

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needs to be torn down and rebuilt. Mr. Hill then submitted a site plan, showing the building in question in pink. The proposed replacement will be 36 feet wide (2 feet wider than the existing) to make the aisle between the stables slightly roomier. It will extend two feet further into the courtyard. Mr. Hill stated that this barn is not visible from the neighbors' properties, and will have no effect on neighboring properties. They also propose to expand the washroom on the interior of the courtyard (highlighted in blue on the plan). The barn will match the architectural character of the building. The Architectural Review Board (ARB) has recently approved the plans. Mr. Hill confirmed that there will be no increase in the programming, the number of horses, Club activities, use of space, or membership at the Club.

There were no questions from Commission members or the general public. Mr. Conze then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti then read the next agenda item:

Special Permit Application #239, Pamela R. Evans, 369 Hoyt Street. Proposal to establish a clinical massage practice home occupation within a portion of the existing single-family residence. The property is located on the east side of Hoyt Street directly across from its intersection with Woodway Road, and is shown on Assessor's Map #8 as Lot #195 in the R-1/2 Zone.

Ms. Pamela Evans was present to discuss the application. She explained that 103 square feet of her existing residence would be used for the proposed home occupation. The entire residence is 1,400 square feet. In response to a question, she confirmed that her driveway is over 100 feet long, and has a turnaround/backing area. This would enable clients to not have to back into Hoyt Street. Ms. Evans said that she would not serve more than one client at the property at a time, but there is enough on-site parking if there is a brief overlap between appointments.

There were no further comments from Commission members, and no comments from the general public. Mr. Bigelow made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti then read the next agenda item:

Coastal Site Plan Review #214, Flood Damage Prevention Application #230, Michael & Edith Sara McFadden, 8 Waverly Road. Proposing to construct additions and alterations to the existing single family residence, and to perform related site development activities within regulated areas. The subject property is located on the west side of Waverly Road, approximately 200 feet north of its intersection with Baywater Drive, and is shown on Assessor's Map #55 as Lots #16 & 17 in the R-NBD Zone.

Architect Neil Hauck was present to discuss the application. He said that the existing residence is in the center of the property. The existing lot is undersized. The residence is at elevation 9.9 above sea level, and the flood elevation is 12. Thus, the first floor of a residence must be at elevation 13 to comply with local flood regulations. They propose to demolish the existing garage, lift up the existing residence and move it to the south, and reset the house at the proper elevation. They will then construct additions to the house. One of the existing sheds on the property will be removed.

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They will be leaving the driveway in generally the same location. There is no need for a variance from the Zoning Board of Appeals for this project, as the project meets all the R-NBD zoning requirements. The foundation will be designed to comply with the flood damage prevention regulations. Mr. Hauck confirmed that they will not be changing the topography of the property, and that the property is generally flat. The base of the crawl space will be set at grade. The runoff will be absorbed on site rather than directed towards the neighbors, and underground storage on-site will be tied into.

Mr. Damanti asked Mr. Ginsberg if there were any staff concerns. Mr. Ginsberg outlined his one-page memorandum to the Commission and noted that this property does not contain tidal wetlands, is not adjacent to tidal wetlands, and based upon the proposal submitted and described this evening, he does not foresee any coastal impacts of this project.

There were no further comments from Commission members, and no comments from the general public. Mr. Bigelow made a motion to close the public hearing on this matter. That motion was seconded by Mr. Spain and unanimously approved.

GENERAL MEETING

At 8:25 P.M., Mr. Damanti then read the first General Meeting agenda item:

Informal discussion regarding development project at 993 Boston Post Road, CBD Zone.

Mr. Ginsberg mentioned that the applicant for the next agenda item was still working on modified plans and would not be going ahead with the informal presentation this evening.

Mr. Damanti then read the next agenda item:

Discussion, deliberation and possible decision on the following items:

Special Permit Application #238-A, Subway Restaurant, 879 Boston Post Road. Proposing to establish a restaurant in the space formerly occupied by Baskin-Robbins ice cream at 879 Boston Post Road, and to perform related site development activities. The subject property is located on the north side of Boston Post Road, approximately 100 feet east of its intersection with West Avenue, and is shown on Assessor's Map #17 as Lot #3, in the CBD Zone.

Ms. Forman made a motion to waive the reading of the three draft resolutions aloud this evening, as the Commission members have had time to review them over the weekend. That motion was seconded by Mr. Bigelow and unanimously approved. The draft resolution for Subway was briefly discussed by Commission members. Mr. Conze made a motion to adopt the resolution as written. That motion was seconded by Ms. Forman and unanimously approved. The adopted resolution reads as follows:

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ADOPTED RESOLUTION
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Application Number: Special Permit Application #238-A
Subway Restaurant

Street Address: 879 Boston Post Road
Assessor's Map #17 Lot #3

Name and Address of Applicant & Michael Modine
Applicant's Representative: SUB-CON
75 Washington Ave.
North Haven, CT 06473

Name and Address of 879-889 Post Road KKE LLC et al.
Property Owner: 53 Rocky Brook Road
New Canaan, CT 06840

Activity Being Applied For: Proposing to establish a restaurant in the space formerly occupied by Baskin-Robbins ice cream at 879 Boston Post Road, and to perform related site development activities.

Property Location: The subject property is located on the north side of Boston Post Road, approximately 100 feet east of its intersection with West Avenue.

Zone: CBD

Date of Public Hearing: September 27, 2005

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 15 & 22, 2005

Newspaper: Darien News-Review

Date of Action: October 25, 2005

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
November 3, 2005

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to establish a restaurant in the first floor space formerly occupied by Baskin-Robbins ice cream at 879 Boston Post Road, and to perform related site development activities. The restaurant is a Special Permit use under Section 654b of the Darien Zoning Regulations. There are approximately 33 indoor seats proposed within this restaurant. No outdoor seating is proposed as part of this application.
2. The subject restaurant does not cook with grease. They only use a convection oven to heat bread.
3. The applicant represented the following proposed hours of operation within the application materials: Sunday through Saturday 6am to midnight.
4. As noted by the applicant at the public hearing, the restaurant is immediately adjacent to a municipal parking lot. The restaurant is exempt from any parking requirements, as land had been donated to the Town to allow expansion of the municipal parking lot.
5. There is now a shared trash facility area adjacent to the municipal parking lot in the rear of the building. The applicant will share the Dumpsters with other businesses and residential uses within this block. There is no need for a vegetable oil drum in this enclosed area, as Subway does not do any cooking—only heating and baking of bread.
6. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
7. The location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
8. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
9. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they

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interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #238-A is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission hereby approves the floor plan concept received in the Planning and Zoning Department entitled, "Subway, 879 Boston Post Rd, scale 1/4"=1', dated 8/24/05-8/25/05, Revision #1."

Final details of the floor plan may be modified subject to final approval by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official. Any final floor plans must be consistent with representations made at the public hearing by the applicant that there will be a maximum of thirty-three (33) seats within the first floor space, and be consistent with this Resolution. This approval is specifically for a Subway Restaurant as described in the application materials, and any proposed future changes will require submission of a request to the Planning and Zoning Commission for review and action. Even changing the menu or operations to include typical restaurant cooking would constitute a change due to the need for a different and more substantial exhaust system.

- B. In the application materials, the applicant notes "...we would install a vent less, charcoal air filter system in our store." Prior to the issuance of a Zoning or Building Permit for the restaurant, final revised plans/elevations shall be submitted reflecting the installation of a venting system to control kitchen emission of odors and particulates. The system shall include a ductless charcoal air filter system. This system re-circulates the air within the store, and there will be no exterior vent. These plans/elevations shall be reviewed by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official. This is imperative to minimize any potential odors to other adjacent businesses, and existing upper floor residential units above the restaurant. The applicant shall design the system so that it does not obscure any of the second floor windows. Any proposed HVAC units on the roof shall be shielded from ground level view. All equipment to be installed shall be maintained by the applicant. The proposed ventilation system shall be fully installed and operational prior to the issuance of a Certificate of Occupancy for the restaurant.
- C. The existing outdoor shared trash facility area shall be neatly maintained, and the doors shall remain shut at all times that someone is not loading or unloading garbage. The applicant is responsible for maintaining this shared trash area, including ensuring that it is emptied frequently enough to minimize odors. As noted in the application materials, trash pickup shall be scheduled for a minimum of four times per week, and recyclables twice per week. Although the trash facility area is shared with other businesses and residential uses, the applicant or landlord shall be responsible for the upkeep and maintenance of the area. Subway proposes to upgrade from a 4-yard trash Dumpster to a 6-yard trash Dumpster.
- D. All deliveries to the premises shall use the side entrance at the rear of the building (adjacent to the municipal parking lot). All deliveries to the restaurant shall be made between 7 A.M. and 10

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A.M., in order to minimize impacts to the upstairs tenants, and to minimize parking conflicts with other businesses.

- E. No request for exterior seating was included as part of this application. Any such request will require subsequent review and action by the Planning & Zoning Commission.
- F. Any exterior signage, awnings, or façade changes will require review and action by the Architectural Review Board.
- G. Because of this restaurant's proposed location directly below residential dwelling units, the Commission hereby limits the proposed hours of operation to be a maximum of Sunday through Saturday 6am to midnight. Any hours longer than those will require subsequent review and action by the Planning & Zoning Commission. The Commission understands that employees will need to arrive earlier and stay later.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- I. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies. This includes, but is not limited to, final approval from the Darien Health Department.
- J. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (October 24, 2006). This may be extended as per Section 1009.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Mr. Damanti then read the next agenda item:

Amendment of Business Site Plan #90-K, Pear Partners, LLC., 1077 Boston Post Road. Proposing to construct five additional parking spaces to the joint parking lot at 1077 Boston Post Road; to install a landscaped pedestrian path; to allow partial encroachment of 13 parking spaces; and to perform related site development activities. The subject property is located on the northwest side of Boston Post Road, approximately 300 feet west of its intersection with Brook Street, and is shown on Assessor's Map #73 as Lots #7 and #42, in the CBD Zone.

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Commission members clarified the language about the signs in Condition G, and noted Condition B relative to a fence and/or shrubs adjacent to Clock Hill Homes. Mr. Bigelow made a motion to adopt the resolution as amended. That motion was seconded by Mr. Conze and unanimously approved. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 25, 2005**

Application Number: Amendment of Business Site Plan #90-K

Street Address: 1077 Boston Post Road

Assessor's Map #73 Lots #7 and #42 with shared parking on Lots #40 and #41

Name and Address of Applicant Pear Partners, LLC
And Property Owner: 528 Boston Post Road
 Darien, CT 06820

Name and Address of William J. Hennessey, Jr., Esq.
Applicant's Representative: Sandak Hennessey & Greco
 970 Summer Street
 Stamford, CT 06905

Activity Being Applied For: Proposing to construct five additional parking spaces to the joint parking lot at 1077 Boston Post Road; to install a landscaped pedestrian path; to allow partial encroachment of 13 parking spaces; and to perform related site development activities.

Property Location: The subject properties are on the northwest side of Boston Post Road, approximately 550 feet northeast of its intersection with Leroy Avenue.

Zone: CBD & PR (portion of shared parking lot)

Date of Public Hearing: September 27, 2005

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 15 & 22, 2005

Newspaper: Darien News-Review

Date of Action: October 25, 2005

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
November 3, 2005

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

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- the proposed use and activities must comply with all provisions of Sections 650, 900, and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicant proposes to construct five (5) additional parking spaces to the joint parking lot at 1077 Boston Post Road; to install a landscaped pedestrian path; to allow partial encroachment of 13 parking spaces; and to perform related site development activities. The existing access driveway to the east of the Darien Playhouse will be redesigned to be pedestrian access only. The Commission notes that this application is related to Business Site Plan #171-B, Thomas Golden Realty Co., 1063-1077 Boston Post Road, which is an application for a new mixed-use building and parking area on the adjacent property to the east.
2. There are currently shared parking arrangements among three properties--this property, the Darien Sport Shop owned by Stephen F. Zangrillo at 1127 Boston Post Road, and Webster Bank and the antique shop owned by 1101 Boston Post Road Investments, Inc., at 1101 Boston Post Road. This application seeks to expand the net number of parking spaces within this shared lot.
3. The applicant proposes to utilize the existing Joint Parking arrangement as expressly permitted by Section 905 of the Darien Zoning Regulations.
4. The proposed landscaped pedestrian path will replace an existing driveway coming off the Boston Post Road. That driveway will be closed off for vehicular use, and a new curb installed.

NOW THEREFORE BE IT RESOLVED that Amendment of Business Site Plan #90-K is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction plans and site plans must be modified as discussed herein, and the site work shall be in conformance with the revised versions of the following submitted plan:
 - Site Plan 1063 Boston Post Road, scale 1/32"=1'-0", dated 08-15-05, by Do H. Chung and Partners, Sheet A1.1.
- B. The applicant shall submit a final Landscaping Plan. This Plan shall specifically define the size and species of trees to be installed in the new pedestrian path along the northeast side of the Darien Playhouse, as well as the location of any benches and plantings (light poles may be shown on this plan as well—see item C below). It shall also give the details on any trees to be

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planted and/or fence to be installed adjacent to Clock Hill homes. This Plan shall be reviewed and acted upon by the Planning and Zoning Director prior to plan implementation.

- C. An exterior Lighting Plan shall be submitted for final review and action by the Planning and Zoning Director prior to plan implementation. This Plan shall show light pole locations, with details regarding the light pole styles, which shall be consistent with the "Model Block". Light poles to be in parking lots shall be located and protected to minimize damage by vehicles. This Lighting Plan shall include any emergency lighting required by the Fire Marshal. The maximum height of any new light fixtures to be installed shall be 14 feet for parking areas, and 10 feet for pedestrian areas (per Section 232 of the Zoning Regulations). Internal shields shall be utilized to prevent glare problems in or toward the adjacent residential uses.
- D. As noted above, Business Site Plan #171-B, Thomas Golden Realty Co., 1063-1077 Boston Post Road, is an application for a new mixed-use building and parking area on the adjacent property to the east. That application relies upon a portion of their required parking being located on the 1077 Boston Post Road property. Thus, if the applicant decides to implement that approval, this approval shall be implemented concurrently.
- E. During construction, the applicant shall utilize any and all sediment and erosion control measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient.
- F. In accordance with Section 905b of the Darien Zoning Regulations, the approval of this application shall be terminated upon the termination of the operation of any of such establishments referred to in the parking arrangements.
- G. During the public hearing on this matter, it was noted that the property at 1077 Boston Post Road shares the existing parking lot with the Darien Sport Shop and the building at 1101 Boston Post Road. All parking spaces within this lot are available to customers and employees of any of these buildings. Apparently, some of the existing signs in the 1077 Boston Post Road parking lot read "Parking for 1077 Post Road only" or something similar. Although the Commission understands the need for the property owner to discourage use of the parking lot by commuter/train station parkers, the existing signs which read "Parking for 1077 Post Road only" or similar type signs shall be removed prior to obtaining a Zoning or Building Permit for the project at 1063 Boston Post Road or implementing this project. The reason for this is that the signs are inconsistent with the shared parking agreement. The removal of these signs will be in keeping with the spirit of the shared parking agreement.
- H. An as-built survey shall be submitted to the Planning and Zoning Office before a Certificate of Occupancy for the building at 1063 Boston Post Road is issued. This survey shall show the light poles, any fencing and/or landscaping near Clock Hill Homes and the lined parking spaces.

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- I. The approval of this Business Site Plan does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This may include a permit from the State of Connecticut DOT for modifying (closing) the existing curb cut.
- J. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- K. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (October 24, 2006). This may be extended as per Section 1028.

All provisions and details of the plans, as required to be amended herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. Final revised plans and all other required documentation shall be submitted to the Planning and Zoning Department within 90 days of this action or this approval shall become null and void.

Mr. Damanti then read the next agenda item:

Business Site Plan #171-B, Thomas Golden Realty Co., 1063 and 1077 Boston Post Road. Proposing to raze the existing structures on Lot #8, construct a two-story building with associated parking on that Lot; modify the existing accessway and construct a portion of the parking on the adjacent property at 1077 Boston Post Road; and perform related site development activities. The subject properties are located on the northwest side of Boston Post Road, approximately 210 feet west of its intersection with Brook Street, and are shown on Assessor's Map #73 as Lots #8, and #7 and #42, in the CBD Zone.

Commission members briefly discussed the draft resolution and had a number of minor amendments. Mr. Conze made a motion to adopt the resolution as amended. That motion was seconded by Mr. Kenny and unanimously approved. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 25, 2005**

Application Number: Business Site Plan #171-B

Street Address: 1063-1077 Boston Post Road
Assessor's Map #73 as Lots #8, and #7 and #42

Name and Address of Applicant	Thomas Golden Realty Co.
And Property Owner:	528 Boston Post Road
	Darien, CT 06820

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Name and Address of
Applicant's Representative: William J. Hennessey, Jr., Esq.
970 Summer Street
Stamford, CT 06905

Activity Being Applied For: Proposing to raze the existing structures on Lot #8, construct a two-story building on that Lot; modify the existing accessway and construct a portion of the parking on the adjacent property at 1077 Boston Post Road; and perform related site development activities.

Property Location: The subject properties are located on the north side of Boston Post Road, approximately 210 feet west of its intersection with Brook Street.

Zone: CBD

Date of Public Hearing: September 27, 2005
Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: September 15 & 22, 2005 Newspaper: Darien News-Review

Date of Action: October 25, 2005 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News-Review
November 3, 2005

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650, 900, and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicant proposes to raze the existing structures at 1063 Boston Post Road (Lot #8), construct a two-story building with associated parking on that Lot; modify the existing accessway and construct a portion of the parking on the adjacent property at 1077 Boston Post Road; and perform related site development activities.

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2. The proposed building was reviewed and approved by the Architectural Review Board on September 20, 2005.
3. The proposed building is 8,000 square feet, with 4,000 square feet on each floor and an unfinished basement. A total of 26 parking spaces are proposed. Under the Darien Zoning Regulations, this development would require 56 parking spaces (40 for the first floor retail spaces and 16 for the second floor office space). At least 12 of the proposed parking spaces would be partially on the adjacent property at 1077 Boston Post Road. The Commission notes that this property is located within downtown Darien, near municipal parking lots and on-street parking.

4. The applicant proposes to utilize the existing Joint Parking arrangement as expressly permitted by Section 905 of the Darien Zoning Regulations. Section 905 reads as follows:

905. Joint Parking

Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the Commission may approve the joint use of parking space by two or more establishments on the same or on contiguous lots, the total capacity of which space shall be less than the sum of the spaces required for each, provided:

- a. *The Commission finds that the proposed capacity shall meet the intent of the requirements;*
- b. *Approval of such joint use shall be automatically terminated upon the termination of the operation of any of such establishments;*
- c. *Legal documentation shall be furnished establishing such rights for the duration of such joint use.*

Such shared parking arrangements shall be limited to use and shall not include shared parking by time.

5. A Letter-Report dated August 26, 2005 from David Sullivan, PE of Barkan & Mess Associates, Inc. was submitted as part of this application. That was reviewed by Michael Galante of FP Clark Associates, Inc. Mr. Sullivan concludes in his letter-report that "...it is now clear that parking demands from the revised development can be accommodated by the parking spaces provided on site...". The submitted application also notes that the applicant has purchased eight (8) off-site parking spaces from the Town for the Mechanic Street parking lot to be used for employee parking.
6. In this case, the Commission finds that the proposed capacity meets the intent of the requirements. Most of the first floor space will be occupied by a bank, with the remainder being another retail establishment. The second floor will have 4,000 square feet of office space.
7. The Commission takes cognizance of a related application, Amendment of Business Site Plan #90-K for the adjacent property at 1077 Boston Post Road. That application proposes to grant an easement for the subject development; construct five additional parking spaces to the joint parking lot at 1077 Boston Post Road; to install a landscaped pedestrian path; to allow partial encroachment of 13 parking spaces; and to perform related site development activities.

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NOW THEREFORE BE IT RESOLVED that Amendment of Business Site Plan #171-B is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

A. Construction plans and site plans must be modified as discussed herein, and the site work shall be in conformance with the revised versions of the following submitted plans:

- Site Plan, Thomas Golden Realty, 1063 Post Road, by Do H. Chung and Partners, scale 1/16"=1'-0", dated 08-15-05, Sheet A1.1.
- Floor Plans, Thomas Golden Realty, 1063 Post Road, by Do H. Chung and Partners, dated 08-15-05, Sheet A2.1.
- Elevations, Thomas Golden Realty, 1063 Post Road, by Do H. Chung and Partners, dated 08-15-05, Sheet A3.1.

These plans specifically show a mix of retail space and a bank on the first floor of the building; office space on the second floor of the building; and an unfinished basement to be used for storage only.

B. The Site Plan shall be modified to reflect a modified area adjacent to parking space #12. This modification shall slightly reduce this area and stripe it so that customers and employees understand that this area is not a parking space, but rather, a turnaround area.

C. An exterior Lighting Plan shall be submitted for final review and action by the Planning and Zoning Director prior to the issuance of a Zoning or Building Permit. This Plan shall show light pole locations, with details regarding the light pole styles consistent with the "Model Block" standards. Light poles to be in parking lots shall be located and protected to minimize damage by vehicles. This Lighting Plan shall include any emergency lighting required by the Fire Marshal. The maximum height of any new light fixtures to be installed shall be 14 feet for parking areas, and 10 feet for pedestrian areas (per Section 232 of the Zoning Regulations). Internal shields shall be utilized to prevent glare problems in or toward the adjacent residential uses.

D. Because of need for at least 13 of the proposed 26 parking spaces to be on adjacent property, the Commission hereby authorizes and requires that Amendment of Business Site Plan #90-K for 1077 Boston Post Road be implemented concurrently with this project. An easement shall be provided by the property owner at 1077 Boston Post Road for this parking. As discussed at the Public Hearing, signs have been installed within the joint use parking lot that designate certain spaces as being reserved for only some of the businesses involved in the shared parking arrangement. This practice is unacceptable because all of the parking spaces are to be available to patrons of all of the businesses within the properties involved in the joint use parking lot. Prior to the issuance of the Zoning Permit for the proposed building, the applicant shall cause the removal of all inappropriate signs in the joint parking area and if appropriate, the installation of appropriate, replacement signs. The removal of the existing signs will result in the parking lot being in keeping with the spirit of the shared parking agreement.

E. During the construction, the applicant shall utilize any and all sediment and erosion control measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction. The

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Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient.

- F. Because the applicant is applying for Joint Parking under Section 905 of the Zoning Regulations, the applicant shall re-apply to the Planning and Zoning Commission once the tenant for the proposed first floor retail space and the tenant for the upstairs office space have been identified. This will allow the Commission to determine and address potential parking and other issues related to those tenants and ensure that adequate parking is still being provided for the various uses within the 1063 Boston Post Road building.
- G. No delivery vehicles shall use the Boston Post Road for loading or unloading, nor to make deliveries to the site. It is the responsibility of the property owner and each of the tenants to inform delivery personnel that adequate delivery areas are provided in the rear of the building (the north side of the building), to assure that only those designated areas are utilized for deliveries.
- H. An as-built survey shall be submitted to the Planning and Zoning Office before a Certificate of Occupancy for the building is issued. This survey shall show both the building as well as changes to the property, including but not limited to lighting and lined parking spaces.
- I. The approval of this Business Site Plan does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This may include a permit from the State of Connecticut DOT for modifying (closing) the existing curb cut.
- J. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- K. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (October 24, 2006). This may be extended as per Section 1028.

All provisions and details of the plans, as required to be amended herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. Final revised plans and all other required documentation shall be submitted to the Planning and Zoning Department within 90 days of this action or this approval shall become null and void.

Approval of Minutes—October 18, 2005

Mr. Damanti had a comment on page 2 of the minutes. Mr. Conze made a motion to approve the October 18, 2005 Special Meeting/Executive Session/General Meeting minutes as amended. That motion was seconded by Mr. Kenny and unanimously approved.

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At 8:40 P.M., the Commission then went back into a Public Hearing, and Mr. Damanti read the next agenda item:

Land Filling & Regrading Application #11-A, Jack Procaccini, 7 Silver Lakes Drive.
Proposing to fill and regrade within fifteen feet of the north property line and in other locations on the property and to perform related site development activities. The subject property is located on the west side of Silver Lakes Drive, approximately 550 feet north of its intersection with Tokeneke Road, and is shown on Assessor's Map #37 as Lot #5, in the R-1/2 Zone.

Mr. Jack Procaccini was present to discuss this application. He noted that he is proposing to grade and regrade the site in a variety of areas including the north corner of the house and near the north property line. He said that filling and regrading became an issue as the house was being constructed. In the north part of the property he will be cutting the grade which means that no water will drain towards the neighbor to the north (Mrs. Troy). All surface water will be directed along the side of the house and into the front yard. Mr. Procaccini said that he will install storm water galleries in the front yard.

Professional Engineer Robert Peck said that he drew up the site development plan. He then submitted the computations to accommodate the runoff from the proposed residence and the filling and regrading. Mr. Peck explained that there are 330 cubic feet of underground galleries to handle the increase in runoff due to the increased impervious surface. This proposal will not increase any surface water going towards the neighbors. Mr. Peck explained that the original plan had three galleries and they have now increased the number to accommodate the increased pavement and the circular driveway in the front of the property. The low side of that front circular driveway will intercept water. A curb will be added to the south side of the driveway near the garage to direct water into the galleries rather than flow towards the neighbor to the south (Zecchin). Photographs of the subject property were then discussed. Mr. Peck explained that there is not much filling as part of this proposal – the amount of fill is +/- 6 inches which is considered normal landscaping. He added that from the north property line to the proposed retaining wall would be a minimum of 8 feet and that retaining wall will be a maximum of 4 feet high.

Mrs. Troy from 9 Silver Lakes Drive explained that she lives just to the north of the Procaccini property. She is just uphill of the proposed cutting and the proposed location of the retaining wall. She explained that Mr. Procaccini has assured her that he will plant trees for screening and water absorption purposes. Ms. Troy then submitted photographs for the record.

Mr. David Zecchin of 5 Silver Lakes Drive was present with his parents, Jordan and Flora Zecchin and explained that they were on the downhill side of this property. He then submitted a letter with photographs. Mr. Zecchin outlined the concern about how drainage will work, the maintenance of the drainage system and what actions will be taken relative to drainage on the west side of the property. Mr. Zecchin noted that previously, surface water from the lawn and the small house in the rear which was then located further back on the property flowed on the surface of the lawn towards the south boundary towards the drainage ditch. Mr. Peck responded that all roof drains will be connected by pipes to the galleys. The 7'x4' galleys should be adequate to handle the increase in roof and driveway water. He explained that none of the Procaccini activity will change the drainage ditch in any way. The water from the house and the driveway will be captured on site.

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Mrs. Flora Zecchin said that she believes another catch basin is needed in the driveway and that the height of the curb needs to be specified. Mr. Peck specified that a three inch asphalt curb and a two inch depression of catch basins will be implemented. Mr. Procaccini assured Ms. Zecchin that he will increase the height of the curb if needed. Mr. Peck said that all the leaders will be piped to the galleys. Surface water in the driveway will be directed to the east away from the neighbors and water from the front yards and driveways will move to the edge of the street then along to the brook then under the street to the pond across the street. Mr. Peck said that in his professional opinion, he does not expect ponding on the front lawn or in the street. Mr. Zecchin confirmed that his parents had put in a catch basin in the street approximately 20 years ago.

There were no further comments from Commission members, and no further comments from the general public. Mr. Conze then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

There being no other business, the meeting was adjourned at 9:30 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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